

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CGS INDUSTRIES, INC., a Florida corporation,)

Plaintiff,)

vs.)

THE CHARTER OAK FIRE INSURANCE)
COMPANY, a Connecticut corporation,)

Defendant.)

CASE NO.: CV10-3186 JBW (JO)

Hon. Jack B. Weinstein

**NOTICE OF PLAINTIFF CGS
INDUSTRIES, INC.'S MOTION
FOR SUMMARY JUDGMENT AS
TO LIABILITY ON DEFENDANT
CHARTER OAK'S DUTY TO
DEFEND**

Plaintiff CGS Industries, Inc. (“CGSI”) respectfully moves for summary judgment that Defendant The Charter Oak Fire Insurance Company (“Charter Oak”) owed CGSI a duty to defend it in: *Five Four Clothing, Inc., et al. v. CGS Industries, Inc., et al.*, Case No. CV 09-9431 GW (CWx), United States District Court for the Central District of California (the “*Five Four* lawsuit”). The motion is made pursuant to Fed. R.Civ. P. 56 and L.R. 56.1 and is based on the grounds that the allegations in the *Five Four* action trigger the potential for coverage and Charter Oak’s duty to defend the *Five Four* action. A defense is owed pursuant to both the Second Amended Complaint and the Third Amended Complaint filed in the *Five Four* lawsuit.

The motion is based on these moving papers, the concurrently-submitted Statement of Materials Facts and Memorandum of Law, the Declarations and Request for Judicial Notice in support thereof, the pleadings and documents on file in this lawsuit and on such other briefs and evidence as may be subsequently presented.

Dated: August 9, 2010

/s/ David A. Gauntlett

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2010, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

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